

PAC

rneys and Counselors at Law

January 14, 2005

495 Metro Place South, Suite 210 Dublin, Ohio 43017-5319 Telephone (614) 792-5555 Fax (614) 792-5536 www.standleyllp.com

Via Facsimile 703-872-9306 and U.S. First Class Mail

Ms. Retta Williams
Office of Petitions
Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: Title: PROTEIN-FREE DEFINED MEDIA FOR THE GROWTH

OF NORMAL HUMAN KERATINOCYTES

Serial No.: 09/694,393 Inventor: John Wille

Our Reference: HYG 1194-011D

Dear Ms. Williams:

In accordance with your telephone conversation this morning with Vickie D'Alessandro, enclosed is the March 12, 2004 Petition to Revive. Included with this mailing are the Figures described on Page 4 of the Petition. These figures apparently were either misplaced and/or dislodged from the March 12, 2004 filing.

We appreciate your prompt attention to this matter. If you have any further questions or need further documentation, please do not hesitate to call.

Thank you for your assistance in this matter.

Very truly yours,

Cheryl S. Scotney

CSS:vad Enclosures



STANDLEY LAW GROUP LLP ATTORNEYS AND COUNSELORS AT LAW 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017-5315

DATE	INVOICE	AMOUNT		
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☐ Allegation of Use

Express Mail No.:

☐ Section 8 & 15 Affidavit

☐ Section 8 & 9 Renewal

☐ Appl'n for Copyright Registration

25-3/440

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	TWO SIGNATURES REQUIRED IF OVER \$4,000.00
Columbus, Ohio 43271 www.bankone.com	JAN JAN
#0078 2211' 1:0440000371: 9	BO 24094411
Client/Matter Not 1C1G4 Applicant: 11le/Mark: 1200 TUS- THE MAIL ROOM STAM	Serial No. 09/10/14/39 3 Filing Date: 3-12-04  Client: Hy-Gent Symmetry  FILL MEMBER PROCESSING DOCUMENTS ON THE DATE INDICATED ON THE MAIL ROOM STAMP.
☐ Appl'n for Patent with:pgs. of applicationpgs. drawings informal ☐ Application Data Sheet ☐ Request Not to Publish ☐ Inventor's Declaration ☐ PO	☐ Appl'n for TM / SM☐ Use Based☐ ITU

☐ Information Disclosure Statement

\_pgs. formal drawings

Certificate of Mailing date of:

☐ Copies of References

☐ Resp. Notice of Missing Req./Formalities Req.

☐ Assignment & Assignment Recordation form

☐ PTO-1449

☐ Amendment

☐ Issue Fee forms \_

Tansmittal Letter

Check No.:

Fee Calculation Sheet

• •		Approved of use through 04/30/2003. OMB 0651-0031			
•	U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE				
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.					
	Annlication Number	09/694,393			
TRANSMITTAL	Filing Date	10/23/2000			

PTO/SB/21 (05-03)

FO	RM // 'O	First Named Inventor	Wille, Jr.		
(to be used for all correspondence after initial fillings and the state of Pages in This Submission 139		Art Unit	Technology Center 1600		
		Examiner Name			
	Co America de		Bruce Kisliuk		
Total Number of Pages in 1	This Submission 39	Attorney Docket Number	HYG 1194-011D		
	ENC	LOSURES (Check all that	t apply)  After Allowance communication		
Fee Transmittal F		Drawing(s) Licensing-related Papers	to Group  Appeal Communication to Board of Appeals and Interferences		
Amendment/Reply	·	Petition	Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)		
After Final		Petition to Convert to a Provisional Application Power of Attorney, Revocation	Proprietary Information		
Affidavits/de	eclaration(s)	Change of Correspondence Addr	ess Status Letter		
Extension of Time	Request	Terminal Disclaimer	Other Enclosure(s) (please Identify below):		
Express Abandonn	nent Request	Request for Refund	check and post card		
Information Disclos	sure Statement	CD, Number of CD(s)			
Certified Copy of P	Rema	arks			
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	to Missing Parts FR 1.52 or 1.53				
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or ·	S. Saatman, Box 46 219				
Individual name Cheryl S. Scotney, Reg. 46,218 Signature					
		ary			
Date 03/12/2004 <i>O</i>					
CERTIFICATE OF TRANSMISSION/MAILING					
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.					
Typed or printed name	Lada V. Deirana				
	Jody K. Prince	17 17	Data		
Signature	(h) []	K. Dunce	Date 03/12/2004		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application, Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden. should be sent to the Chief Information Officer U S Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORM'S TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/17 (05-03) or use through 04/30/2003. OMB 0651-0032

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Effective 0110112003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR, 1.27
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TOTAL AMOUNT OF PAYMENT \$ 665.00

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Complete if Known				
Application Number	09/694,393			
Filing Date	10/23/2000			
First Named inventor	Wille, Jr.			
Examiner Name	Bruce Kisliuk			
Art Unit	Technology Center 1600			
Attorney Docket No.	HYG 1194-011D			

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)			
Check Credit card Money Other None		3. ADDITIONAL FEES Large Entity , Small Entity			
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	FEE CALCULATION	1251 110	2251 55 Extension for reply within first month		
1. BASIC F	ILING FEE	1252 420	2252 215 Extension for reply within second month		
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1002 340	2002 170 Design filing fee	1401 330	2401 165 Notice of Appea	al	
1003 530	2003 265 Plant filing fee	1402 330	2402 165 Filing a brief in s	upport of an appeal	
1004 770	2004 385 Reissue filing fee	1403 290	2403 145 Request for oral	hearing	
1005 160	2005 80 Provisional filing fee	1451 1,510	1451 1,51 0 Petition to institu	ute a public use proceeding	
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Z. EXTRA	CLAIM FEES FOR UTILITY AND REISSUE Fee from	1501 1,330	2501 665 Utility issue fee (	(or reissue)	
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		1460 130	1460 130 Petitions to the Commissioner		
		1807 50	1807 50 Processing fee under 37 CFR 1. 17(q)		
Large Entity Fee Fee	Small Entity   Fee Fee   Fee Description	1806 180	1806 180 Submission of In	formation Disclosure Stmt	
Code (\$) 1202 18	Code (\$) 2202 9 Claims in excess of 20	8021 40	8021 40 Recording each property (times	patent assignment per number of properties)	
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**or number	r previously paid, if greater; For Reissues, see above	*Reduced by	Basic Filing Fee Paid S	SUBTOTAL (3) \$ 665.0	00
SUBMITTED BY				(Complete (if applicable)	
Name (Print/Typ	e) Cheryl S. Scotney	Registrat (Attornev/		Telephone (614) 792-555	5
Signature	(Many S. Shotney	(All of He Wi		Date 03/12/2004	

WARNING. Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1. 1 7 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450. Alexandria, VA 22313-1450.

### NITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor:

John J. Wille, Jr.

Attorney Docket No: 1194-011D

Serial No.:

09/694,393

Filing Date: October 23, 2000

Bruce M. Kisliuk

Director, Technology Center 1600

Title: PROTEIN-FREE DEFINED MEDIA

FOR THE GROWTH OF NORMAL

**HUMAN KERATINOCYTES** 

Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

### CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8 (A)

Date of Deposit: March 12, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

### PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Sir:

The above-identified application has become abandoned for failure to submit formal drawings in compliance with the Notice of Allowance. Initially, new drawings in the form of photomicrographs are enclosed. The entire delay in properly complying with the formal drawing requirement was unintentional.

Applicant believes that it will be obvious that the entire delay was unintentional inasmuch as formal drawings were submitted within the time frame noted in the NOA, but that they were found unacceptable inasmuch as the Examiner objected to the

numbering of the figures. Additionally, some photomicrographs became dislodged from their Bristol board mounts after arriving at the PTO. Since that initial submission, the PTO Rules have changed and Bristol board mounting no longer is acceptable.

Therefore, the attached photomicrographs are not mounted but rather stand alone.

Applicant initially responded to the Notice of Abandonment with a Petition to Withdraw the Holding of Abandonment on January 23, 2003. That Petition was denied on March 13, 2003 with a notation that a renewed Petition must be submitted. A second Petition to Withdraw the Holding of Abandonment was filed on May 13, 2003. That Petition also was denied on January 12, 2004 indicating that the proper recourse is the instant Petition to Revive citing unintentional abandonment. Copies of the series of petitions and decisions are attached.

Applicant offers the following in-depth explanation and reiterates the facts as to events leading to this Petition to Revive. After receipt of the Notice of Abandonment, the undersigned was engaged in conversations with the following individuals telephonically and was communicating via facsimile concerning the formal drawings. Copies of the facsimile communications are attached. It should be noted that as early as May 21, 2002, following telephonic communications, Jody Prince, a paralegal in our office, faxed a post card receipt to Mr. Tom Hawkins in Publications, because Mr. Hawkins had indicated that he had not received the Letter to the Official Draftsman that accompanied the issue fee payment. Mr. Hawkins indicated that if he received our post card receipt and if he could locate the communication to which it referred, the holding of abandonment should be able to be withdrawn. The facsimile communication also

indicates that Cheryl Scotney would be calling Mr. Hawkins to discuss the matter. After several telephonic discussions with Mr. Hawkins concerning whether his receipt of our post card would cause the holding of abandonment to be withdrawn, to which a definite answer was never given, the undersigned first contacted the Examiner, Leon Lankford, Jr. at telephone number 703-308-2455 and was told to contact another person in Publications by the name of LaMonte Newsome at the telephone number 703-305-5358 in an attempt to receive an answer. The noted conversations took place over a period of months. When a holding of withdrawal of the abandonment was not forthcoming, the undersigned deemed it prudent to file a Petition requesting the same.

Additionally, concerning the formal drawings the undersigned interpreted the Notice of Allowability to require a replacement Fig. 1A. It was not interpreted to require replacement drawings for previously submitted and accepted photomicrographs mounted on Bristol board. Therefore, the issue fee payment was accompanied by a response explaining that Fig. 1A was not required. The undersigned wishes to explain that new formal drawings were not submitted because it was not understood that they were necessary. As noted in the Petition Decision, Fig. 4A had been entered. Therefore it was unclear to the undersigned that any formal drawings were required based upon a review of the facts and the history of the file itself. The undersigned believed that the response filed with the issue fee payment was a fully compliant response concerning the formal drawings.

In further explanation, the undersigned reiterates the following statements that were made in the previously-submitted Petitions:

By a PETITION RESPONSIVE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b) the following information was provided (a portion of the exact text of that petition is restated herein as follows):

A copy of Fig. 4A from Applicants photocopy made in this office of the application exactly as it was submitted to the PTO on October 23, 2000;

A copy of the patent application transmittal indicating 11 sheets of drawings; and

A copy of the return-receipt post card acknowledging receipt of 11 sheets of formal photomicrographs.

Applicant respectfully submits that at the time of receipt of the application in the PTO Mail Room, Fig. 4A was attached as acknowledged by the PTO stamp on the Post card indicating 11 sheets of formal photomicrographs.

Further evidencing the submission, Fig. 4A is discussed in the specification at the following locations:

Brief Description of the Drawings at page 17, first paragraph; and

Detailed Description of the Invention, Example 4, at page 29, lines 1-5.

In order to advance prosecution, a newly prepared Fig. 4A consisting of a mounted photomicrograph is attached for the record.

Therefore, a review of the official PTO record will reflect that, when compared to the specification as allowed, all drawings are present in the record and no further items are necessary in order for the patent to proceed to issuance. However, responsive to

the Petition Decision, new photomicrographs are attached. Applicant respectfully request that this Petition be granted and that the application proceed to issuance.

Respectfully submitted,

By:

Cheryl S. Scotney, Reg. No. 46,218

Attorney for Applicant Standley Law Group LLP

495 Metro Place South, Suite 210

Dublin, Ohio 43017-5319 Telephone: (614) 792-5555 Facsimile: (614) 792-5536

E-mail: cscotney@standleyllp.com



JAN 18 2005 AND TRADERING

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450

JAN 12 2004

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LAN 27 2004

FEB 0 3 2004

STANDLEY LAW GROUP LLP

STANDLEY LAW GROUP

In re Application of John J. Wille, Jr.

Serial No.: 09/694,393 Filed: October 23, 2000

Attorney Docket No.: 1194-011D

: PETITION DECISION

This is in response to the renewed petition under 37 CFR 1.181, filed May 15, 2003, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

A review of the file history is set forth in the previous petition decision and is not repeated herein. The previous decision set forth three requirements for applicant to meet in order to have the holding of abandonment withdrawn. These were (see page 3 of previous decision): (1) file new drawings in compliance with 37 CFR 1.84(b); (2) satisfactorily explain the delay in filing of the original petition; and (3) provide a satisfactory explanation as to why the Notice of Allowability requiring new drawings was not complied with.

With respect to requirement (1), applicant has supplied Bristol board mounted photographs (microphotographs) despite being noticed that such were no longer acceptable by reference to the highlighted portion of the rule quoted in the decision. "Note that photographs filed on or after October 1, 2001, may no longer be mounted on Bristol Board." October 1, 2001, does not refer to the filing date of the application, but the actual date of submission of new or corrected photographs. Further, only Figures 1B, 1C, 1D, 2A, 2B, 2C, 2D, and 3A were submitted. Figures 3B, 4A and 4B were not submitted.

With respect to item (2) above, a general explanation has been given, but lacks sufficient detail or evidence accompanying the statements to satisfy the requirement.

With respect to item (3) above, it is accepted that the examiner's notation on the Notice of Allowability and comments referring to Figure 1A can be interpreted to refer only to the missing figure (which was not present or referred to in the specification, and thus not required).

In view of the failure to comply with requirement (1) and to meet the explanation requirements of item (2) above, the petition is **DENIED**. Applicants may still file a petition under 37 CFR 1.137(b) within TWO MONTHS of the mail date of this decision. The request to consider this petition alternatively as a petition under 37 CFR 1.137(b) cannot be accorded. The petition must be a separate paper.

### The application will be forwarded to the warehouse for storage.

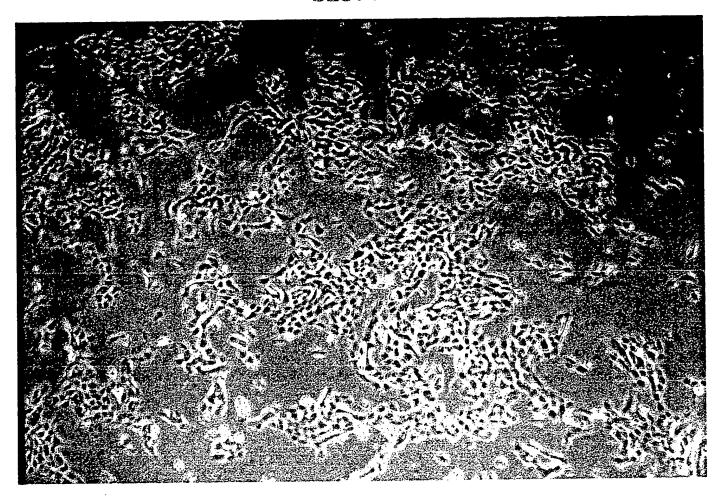
ha Oll (for)

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk

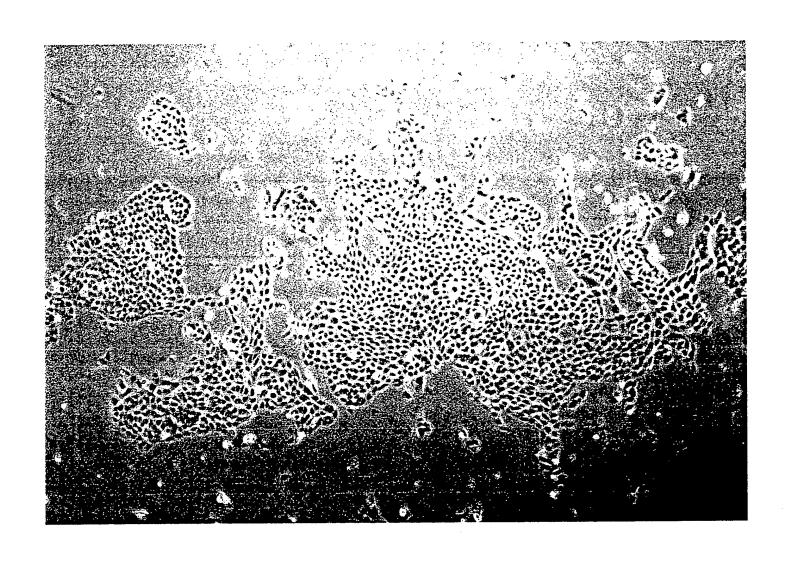
Director, Technology Center 1600

### **BEST AVAILABLE COPY**



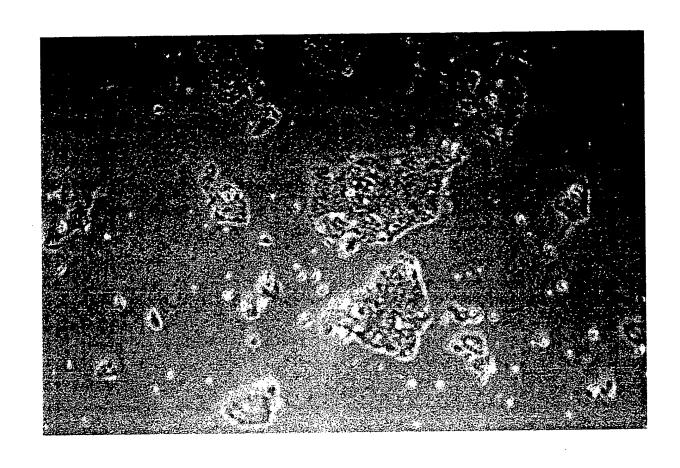
### EXPERIMENT 2 - PLATE B - 72 HRS COMPLETE MEDIA W/ PROTEIN GROWTH FACTORS LIVE CELLS - PHASE CONTRAST MICROSCOPY - 160X

FIGURE 1B



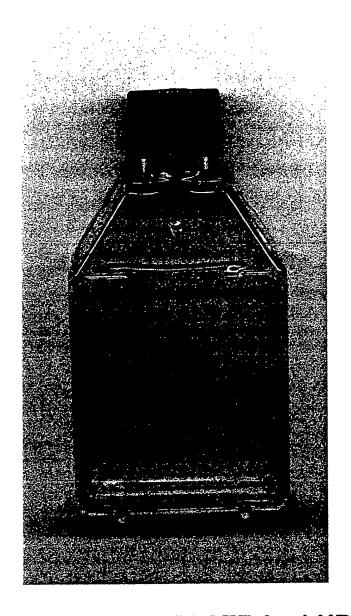
## EXPERIMENT 2 - PLATE C - 72 HRS STANDARD MEDIA W/ RETINYL ACETATE NO PROTEIN GROWTH FACTORS LIVE CELLS - PHASE CONTRAST MICROSCOPY - 160X

FIGURE 1C



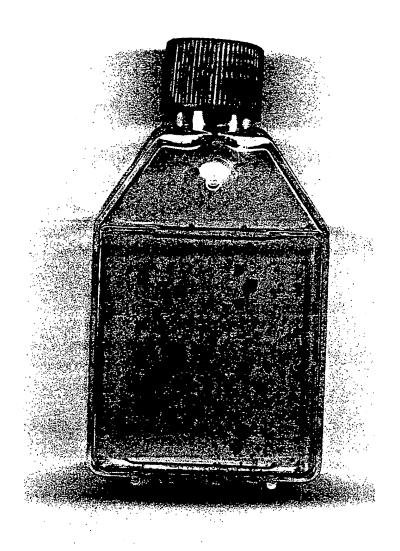
## EXPERIMENT 2 - PLATE D - 72 HRS STANDARD MEDIA W/ NO RETINYL ACETATE & NO PROTEIN GROWTH FACTORS LIVE CELLS - PHASE CONTRAST MICROSCOPY - 160X

FIGURE 1D



EXPERIMENT 2 - PLATE A - 1 HR
TOTAL CELL PLATING
CELLS FIXED AND STAINED -1.25X ACTUAL SIZE
RELATIVE OPTICAL DENSITY UNITS = 1.0

FIGURE 2A



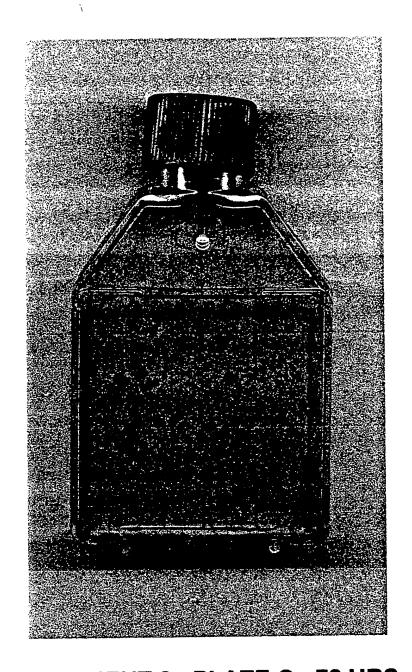
EXPERIMENT 2 - PLATE B - 72 HRS

COMPLETE MEDIA W/ PROTEIN GROWTH FACTORS

CELLS FIXED AND STAINED -1.25X ACTUAL SIZE

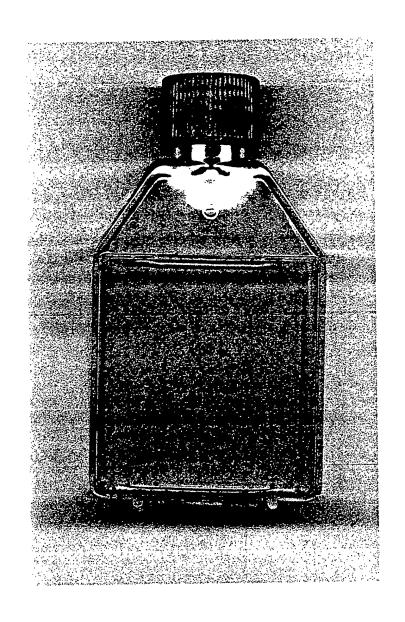
RELATIVE OPTICAL DENSITY UNITS TO PLATE A = 33.8

FIGURE 2B



EXPERIMENT 2 - PLATE C - 72 HRS
STANDARD MEDIA W/ RETINYL ACETATE
NO PROTEIN GROWTH FACTORS
CELLS FIXED AND STAINED -1.25X ACTUAL SIZE
RELATIVE OPTICAL DENSITY UNITS TO PLATE A = 29.7

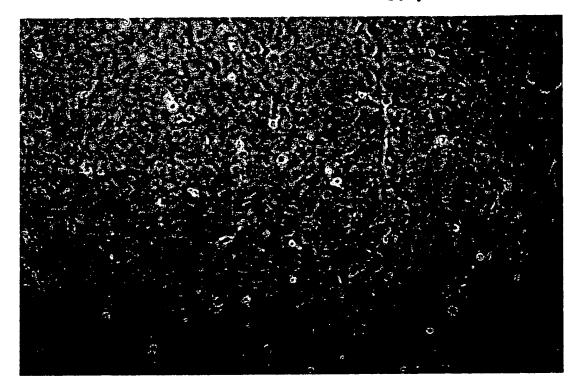
FIGURE 2C



EXPERIMENT 2 - PLATE D - 72 HRS
STANDARD MEDIA W/ NO RETINYL ACETATE &
NO PROTEIN GROWTH FACTORS
CELLS FIXED AND STAINED -1.25X ACTUAL SIZE
RELATIVE OPTICAL DENSITY TO PLATE A = 6.7

FIGURE 2D

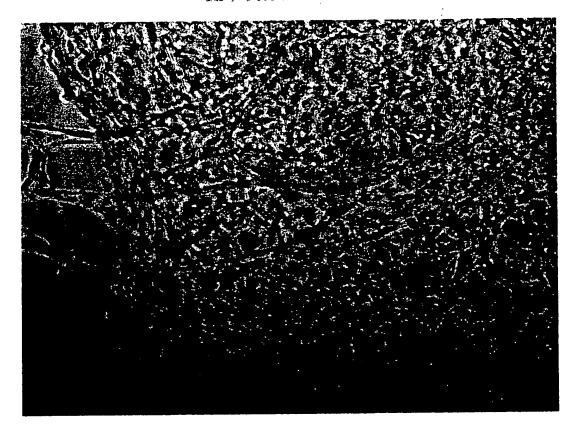
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## RETINYL ACETATE CULTURE TREATMENT PRE-DISPASE RELEASE OF SKIN SHEET PHASE CONTRAST MICROSCOPE 20X MAGNIFICATION

FIGURE 3A

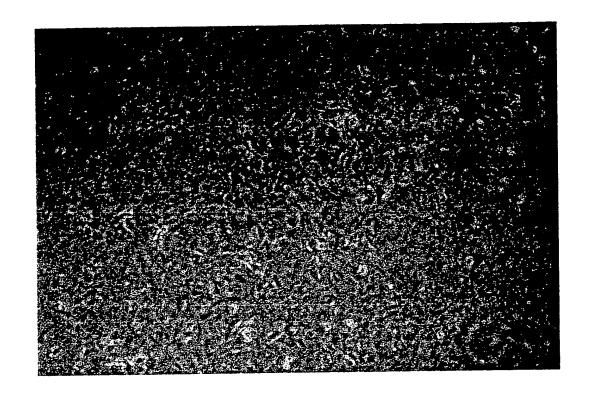
### **PEST AVAILABLE COPY**



RETINYL ACETATE
WITHOUT PROTEIN GROWTH FACTORS
RETINYL ACETATE - SKIN SHEET
TREATED W/ FBS +1mm Ca<sup>++</sup>
DISPASE TOTAL RELEASE
PHASE CONTRAST MICROSCOPE
20X MAGNIFICATION

FIGURE 3B

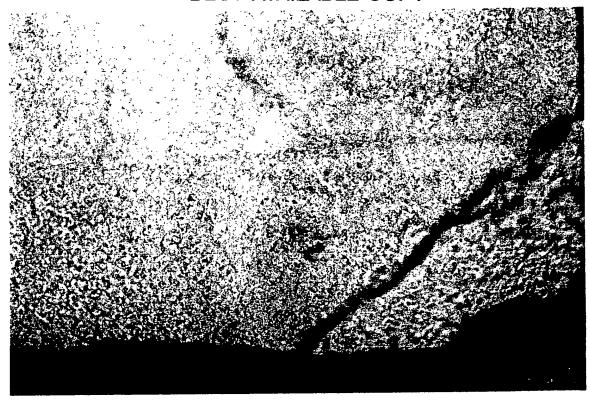
### BEST AVAILABLE COPY



## TOTAL CELL PLATING CONTROL PHASE CONTRAST MICROSCOPE 20X MAGNIFICATION

**FIGURE 4A** 

### **BEST AVAILABLE COPY**



# WITH PROTEIN GROWTH FACTORS TREATED W/ FBS + 1mm Ca<sup>++</sup> CONTROL - SKIN SHEET DISPASE RELEASED PHASE CONTRAST MICROSCOPE 20X MAGNIFICATION

FIGURE 4B